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**HOUSE BILL 166**

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

**INTRODUCED BY**

**Al Park**

**AN ACT**

**RELATING TO CHILDREN; PROVIDING COUNTIES AND MUNICIPALITIES  
WITH AUTHORITY TO ENACT CURFEW ORDINANCES; PROVIDING FOR  
JURISDICTION; AMENDING AND ENACTING SECTIONS OF THE CHILDREN'S  
CODE.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 32A-1-6 NMSA 1978 (being Laws 1993,  
Chapter 77, Section 15, as amended) is amended to read:**

**"32A-1-6. CHILDREN'S COURT ATTORNEY. - -**

**A. The "office of children's court attorney" is  
established in each judicial district. Except as provided by  
Subsection C, D or E of this section, each district attorney is  
the ex-officio children's court attorney for the judicial  
district of the district attorney.**

**B. Except as provided by Subsection C, D or E of**

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1 this section, the children's court attorney may represent the  
2 state in any matter arising under the Children's Code when the  
3 state is the petitioner or complainant. The children's court  
4 attorney shall represent the petitioner in matters arising  
5 under the Children's Code when, in the discretion of the judge,  
6 the matter presents legal complexities requiring representation  
7 by the children's court attorney, whether or not the state is  
8 petitioner or complainant, but not in those matters when there  
9 is a conflict of interest between the petitioner or complainant  
10 and the state. A petitioner or complainant may be represented  
11 by counsel in any matter arising under the Children's Code.

12 C. In cases involving civil abuse or civil neglect  
13 and the periodic review of their dispositions, the attorney  
14 selected by and representing the department is the children's  
15 court attorney. The attorney selected by and representing the  
16 department shall provide the district attorney of the  
17 appropriate judicial district with a copy of any abuse or  
18 neglect petition filed in that judicial district. Upon the  
19 request of the district attorney, the attorney selected by and  
20 representing the department shall provide the district attorney  
21 with reports, investigations and pleadings relating to any  
22 abuse or neglect petition.

23 D. In cases involving families in need of services,  
24 the periodic review of their dispositions and voluntary  
25 placements, the attorney selected by and representing the

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1 department is the children's court attorney. The attorney  
2 selected by and representing the department shall provide the  
3 district attorney of the appropriate judicial district with a  
4 copy of any family in need of court-ordered services petition  
5 filed in that judicial district. Upon the request of the  
6 district attorney, the attorney selected by and representing  
7 the department shall provide the district attorney with  
8 reports, investigations and pleadings relating to any family in  
9 need of court-ordered services petition.

10 E. In cases involving a child subject to the  
11 provisions of the Children's Mental Health and Developmental  
12 Disabilities Act that also involves civil abuse, civil neglect  
13 or a family in need of court-ordered services, the attorney  
14 selected by and representing the department is the children's  
15 court attorney. In cases involving a child subject to the  
16 provisions of the Children's Mental Health and Developmental  
17 Disabilities Act that does not also involve civil abuse, civil  
18 neglect or a family in need of court-ordered services, the  
19 district attorney is the ex-officio children's court attorney.

20 F. In those counties where the children's court  
21 attorney has sufficient staff and the workload requires it, the  
22 children's court attorney may delegate children's court  
23 functions to a staff attorney.

24 G. In a county or municipality that has enacted a  
25 curfew ordinance, the district attorney who has jurisdiction

1 for that county or municipality may delegate the children's  
2 court attorney function to a county or municipality attorney."

3 Section 2. A new section of the Children's Code is  
4 enacted to read:

5 "[NEW MATERIAL] CURFEW ORDINANCES-- CITATIONS--  
6 JURISDICTION.--

7 A. Curfew ordinances may be enacted by counties and  
8 municipalities for the purpose of restricting the hours that a  
9 child under the age of eighteen years may be allowed to remain  
10 in a public place or establishment. Curfew ordinances may  
11 provide for circumstances when a child under the age of  
12 eighteen years may be allowed in a public place or  
13 establishment.

14 B. Curfew ordinances may provide for monetary civil  
15 fines in an amount not to exceed twenty-five dollars (\$25.00).  
16 The fine may be imposed on a child or the child's parent or  
17 guardian.

18 C. A children's court and the department may enter  
19 into joint powers agreements with counties and municipalities,  
20 including the magistrate, municipal or metropolitan courts in  
21 those jurisdictions, for the purpose of allowing jurisdiction  
22 over curfew ordinances in those courts. Absent an agreement,  
23 jurisdiction over curfew ordinances shall be in the children's  
24 court. A children's court may designate a special master or  
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1 commissioner to administer curfew ordinances. "

2 Section 3. EFFECTIVE DATE. --The effective date of the  
3 provisions of this act is July 1, 2004.

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